

its status as a non-profit. *See* NAIC 30(b)(6) corporate representative deposition (attached as Exhibit 8 to NAIC's Motion in Limine #1), pp. 27:7 – 45:5. In addition, Aithent's counsel posed several argumentative questions suggesting that NIPR was formed by NAIC in order to protect NAIC's status as a non-profit. *Id.* at pp. 52:19 – 56:25.

All of these issues raised by Aithent, with respect to NAIC's non-profit status and the actions allegedly taken by NAIC which Aithent contends are contrary to NAIC's non-profit status, are irrelevant red herrings. They are not probative of any issue pending in this litigation, and to allow the introduction of evidence and argument related to these issues would confuse the jury, waste time, and cause unfair prejudice to NAIC. Thus, the Court should exclude all such evidence and argument. FED. R. EVID. 402, 403.

Respectfully submitted,

HUSCH BLACKWELL LLP

/s/ Jeffrey J. Simon

Jeffrey J. Simon MO# 35558

Michael S. Hargens MO# 51077

Aaron J. Mann MO# 53220

Judd M. Treeman MO# 64392

4801 Main Street, Suite 1000

Kansas City, MO 64112

Telephone (816) 983-8000

Facsimile (816) 983-8080

jeff.simon@huschblackwell.com

michael.hargens@huschblackwell.com

aaron.mann@huschblackwell.com

judd.treeman@huschblackwell.com

Attorneys for Defendant National Association of
Insurance Commissioners

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was forwarded on May 3, 2013, via the Court's CM/ECF system, to:

Gregory P. Goheen
McAnany VanCleave & Phillips, P.A.
10 E. Cambridge Circle Drive, Suite 300
P.O. Box 171300
Kansas City, KS 66117

Peter J. Gallagher
Steven Johnson
Shannon Fields
Johnson Gallagher Magliery LLC
99 Wall Street, 15th Floor
New York, NY 10005

/s/ Jeffrey J. Simon